IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.1117 of 2003

Between:

1. The Secretary, The East Point Residents

Association, Visakhapatnam.

2. The Secretary, Public Welfare Association,

Visakhapatnam.

3. The Hon.Secretary, Lily White Club,

Visakhapatnam.

4. The Secretary, Chinna Waltair Colony

House Owners Association, Visakhapatnam.

5. The Secretary, Lawsons Bay Colony

Residents Welfare Association,Visakhapatnam-17

6. The Secretary, Lawsons Bay Colony Balabhavan

Quadrangle Residents Welfare Association,

Visakhapatnam.

7. The Secretary, Nethaji Yuvajana Sangham,

Visakhapatnam.

8. The Secretary, Residents Welfare Association,

Kirlampudi Layout & Dutch Layout, Visakhapatnam.

9. The Secretary, Citizens Welfare Association,

Visakhapatnam.

10.The President, Gram Seva Sangham, Pedda Waltair,

Visakhapatnam-17.

11. The President, All Visakha Residents Welfare

Society, Visakhapatnam-17.

..... PETITIONERS

AND

1. The District Collector, Visakhapatnam.

2. The Chairman, Visakhapatnam Urban

Development Authority, Visakhapatnam.

3. The Special Officer, Municipal Corporation,

Visakhapatnam.

4. The Member Secretary, A.P.Pollution

Control Board, Hyderabad.

5. The Secretary, A.P.Shore Area Development

Authority, Visakhapatnam.

6. The Secretary to Government of India,

Ministry of Environment and Forest, New Delhi.

7. The Director, National Coastal Zone Management

Authority, Visakhapatnam.

8. The Chairman, A.P. State Coastal Zone Management

Authority, Visakhapatnam.

9. MGM Diamond Beach Resorts Pvt.Ltd.,

rep. by its Director-MGM Maran, No.1,

9th street, Dr.Radhakrishnan Salai,

Mylapore, Chennai-600 004.

(Respondent No.9 is impleaded as per

Court Order dated 14-10-2003 in

WPMP No.19664 of 2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or a writ, more particularly, one in the nature of Writ of Mandamus calling for the records and remarks from the respondents herein in and connected to the unauthorized occupation of the sand dunes area near red light house area of the beach in Visakhapatnam by Visakhapatnam Urban Development Authority and its licensee i.e. M.G.M. Diamond Resorts (P) Ltd. And violation of the Coast Regulation Zone Notification Rules and Environment Protection Act,1986 by the respondents herein by making constructions in the prohibited areas and prohibiting access to the beach by violating the directions of Honourable Supreme Court in WP© No.664 of 1993 and to pass appropriate orders directing the concerned authorities to stop the illegal activities of Visakhapatnam Urban Development Authority and its licencee as per approved Coastal Zone Management Plan, provide free access to the beach for the public and to take over the sand dunes area.

Counsel for the Petitioner: THROUGH PETITION

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: Smt.Sumalini Reddy

Counsel for the Respondent No.3: Mr. T.S.Venkata Ramana

Counsel for the Respondent No.4: Mr. S.V.Bhatt

Counsel for the Respondent No.5: G.P. for Transport, R&B

Counsel for the Respondent No.6: None appeared

Counsel for the Respondent No.7: None appeared

Counsel for the Respondent No.8: None appeared

Counsel for the Respondent No.9: Mr.V.Rajagopal Reddy

The Court made the following :

ORAL JUDGMENT: (per **THE HON'BLE THE CHIEF JUSTICE**)

The East Point Colony Residents Welfare Association and 10 other similar Welfare Associations addressed a letter to the Chief Justice of this Court complaining that Visakhapatnam Urban Development Authority (VUDA) and its licensee, namely, MGM Diamond Beach Resorts Private Limited, have occupied sand dunes area near Red Light- house and closed access to the beach and have also violated Coastal Regulation Zone notification, Rules and provisions of Environment Protection Act,1986 by carrying out constructions in prohibited areas and by prohibiting access to the beach. They also complained that VUDA and MGM Diamond Beach Resorts Private Limited have also violated the directions of the Supreme Court given in W.P.(C) No.664 of 1993 and no permission was obtained by VUDA and its licensee from A.P. Shore Area Development Authority, Ministry of Environment and Forests of Government of India and other concerned agencies and prayed directions to be issued for stopping the illegal activities.

The letter received was treated as Public Interest Litigation on which notices were directed to be issued to respondents.

K.B. Arunachalam, Chief Planning Officer, Visakhapatnam Urban Development Authority, filed counter affidavit on behalf of 2nd respondent. Counter affidavits are also filed by respondents 3 and 4 opposing the writ petition on number of grounds. Respondent No.2 in his counter affidavit pointed out that S.Bhujanga Rao, Joint secretary of the 2nd petitioner-Association is a chronic litigant creating constant hurdles to the development activities taken up by VUDA. The ground for such vengeance on the part of S.Bhujanga Rao is that a stall allotted to his wife in VUDA Park Phase-I was cancelled. Thereafter, Bhujanga Rao got number of cases filed against VUDA by instigating local associations. Reference has been made to W.P.No.26085 of 2001, which was got filed by Bhujanga Rao as a public interest litigation seeking to declare the action of VUDA and MGM Dizzy World in setting up of Amusement Park for children in VUDA park as illegal, arbitrary and ultra vires of the provisions of the Environment Protection Act,1986, besides alleging *mala fides*

on the part of Bhujanga Rao in instigating the other petitioners to join him in sending this letter to this Court. VUDA has justified its action and refuted the allegations saying that development activity undertaken is strictly in accordance with the master plan and on compliance with relevant rules, instructions and guidelines. It has been specifically stated that VUDA has not permitted MGM Diamond Beach Resorts Private Limited to carry out any prohibited activities. The deed of licence between VUDA and MGM Diamond Beach Resorts Private Limited stipulated terms and conditions, which *inter alia* postulate obtaining of necessary No Objection Certificate/Consent Order for establishment of Amusement Park.

We need not narrate further details. Suffice it to say that the earlier writ petition filed on similar subject was dismissed by a Division Bench of this Court and Judgment is reported in **MVP SOCIAL WORKERS ASSOCIATION v. VUDA.** Complaints as made in the instant petition were subject matter in the earlier writ petition and they were duly gone into. It was held that there was no violation of any provisions of law and respondents have acted within their rights in undertaking the development activity.

In view of what is stated above, it is not a fit case to give any directions. Accordingly, the Writ Petition is closed.

(DEVINDER GUPTA, CJ)

7th October,2004

(C.V. RAMULU,J)

prk

ASSISTANT REGISTRAR

/True copy/

SECTION OFFICER

To

1. The District Collector, Visakhapatnam.

2. The Chairman, Visakhapatnam Urban

Development Authority, Visakhapatnam.

3. The Special Officer, Municipal Corporation,

Visakhapatnam.

4. The Member Secretary, A.P.Pollution

Control Board, Hyderabad.

5. The Secretary, A.P.Shore Area Development

Authority, Visakhapatnam.

6. The Secretary to Government of India,

Ministry of Environment and Forest, New Delhi.

7. The Director, National Coastal Zone Management

Authority, Visakhapatnam.

8. The Chairman, A.P. State Coastal Zone Management

Authority, Visakhapatnam.

9. The Officer concerned, PIL Cell, High Court of A.P., Hyderabad.

10.2 CCs to the Government Pleader for Revenue (OUT), High Court of A.P.,Hyderabad.

11.2CCs to G.P. for Transport and R&B, High Court Buildings, Hyderabad (OUT)

12.2CD copies